

JPA File No.: 06-088 I
AG Contract No.: KR07-0361TRN
Project No.: CM-CHN-0(200)A
Project: DMS design and
Installations/Link to TMC
Section: In advance of L101 AND 202
freeways
TRACS No.: SS625 01C / 03D
Budget Source Item No.: n/a

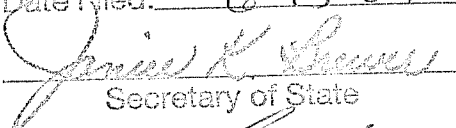
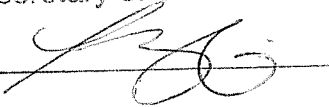
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF CHANDLER

THIS AGREEMENT is entered into this date June 15th, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF CHANDLER, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.
4. The City has selected such project within the boundary of the City; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.
5. The interest of the State for this Project is in the acquisition of Federal funds for the use and benefit of the City, and is authorized as the designated agent for the City. Funds expended for the Project are authorized by reason of Federal Law and regulations.
6. The City, in order to obtain Federal funds for the construction of the project, is willing to provide City funds to match Federal funds in the ratio required or as finally fixed and determined by the City and FHWA.

NO. 28983
Filed with the Secretary of State
Date Filed: 6-15-07

Secretary of State
By: 

7. The work embraced in this Agreement is for the installation of dynamic message signs (DMS) on various arterial Chandler streets to advise motorists of traffic conditions and construction activities. This effort will also link hardware and software of the City's Traffic Management Center (TMC) to the Chandler Police and Fire Departments. The design will be administered by the City, while the construction/installation of the DMS will be administered by the State, collectively hereinafter referred to as the "Project." The City will be responsible for maintaining all facilities installed under this Agreement.

TOTAL PROJECT	\$400,000.00
Estimated Design Cost (TRACS No.: SS625 03D)	\$100,000.00
Federal-aid funds @ 94.3% (capped)	\$ 94,250.00
City funds @ 5.7%	\$ 5,750.00
Estimated Construction Cost (TRACS No.: SS625 01C)*	\$300,000.00
Federal-aid funds @ 94.3% (capped)	\$282,750.00
City funds @ 5.7%	\$ 17,250.00
Total Estimated City Funds*	\$23,000.00

*(Includes construction, construction engineering administration, and contingencies).

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for design and construction. Should costs exceed the maximum Federal funds available, it is understood and agreed that the City will be responsible for any overage.

b. As required by the FHWA, the State will provide design review of the project plans, studies and related documents. When appropriate, the State will provide comments, which will be incorporated into the design documents. Obtain appropriate design documents from the City to be included in the State's construction bid package.

c. Approve the Project if such funds are available by FHWA for the Project, and hereby agree to be the designated authorized agent for the City. Upon approval by FHWA, and with the aid and consent of the City and the FHWA, the State will proceed to advertise for, receive and open bids subject to the concurrence of FHWA and the City, plus enter into a contract(s) with a firm(s) to whom the award is made for the construction of the Project. Such Project is to be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans, Special Provisions, and Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation (ADOT).

d. Upon execution of this Agreement and prior to bid advertising, invoice the City for its share of the construction, currently estimated at \$17,250.00.

e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or Scope of Work called for in this Agreement become necessary, the State shall not be obligated to incur any said expenditures for the Project.

f. Upon receipt and approval of an invoice from the City, and within thirty (30) days, reimburse the City for incurred, eligible costs for the design portion of the Project, up to the authorized capped Federal funds of \$94,250.00.

g. Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

2. The City shall:

a. Provide any required preliminary engineering for the design of the DMS, and hardware/software ITS components for the TMC and Fire Emergency Operations Center (EOC). Administer design consultant contract(s) for the Project and make all payments to the consultant(s). Be responsible for consultant and contractor claims for additional compensation caused by Project delays attributable to the City. As required by the FHWA, the State will provide design review of the project plans, studies and related documents. When appropriate, the State will provide comments, which will be incorporated into the design documents. Provide appropriate design documents to the State to be included in the State's construction bid package.

b. Upon execution of this Agreement and prior to bid advertising, designate the State as authorized agent for the City for the construction portion of the Project. Within thirty-days (30) upon receipt of an invoice, deposit funds with the State in an amount equal to the difference between the total cost of the construction work provided for in this Agreement and the amount of Federal Aid (capped) received. This amount is currently estimated at \$17,250.00. The City is entirely responsible for all costs incurred by the State in performing and accomplishing the work as set forth in this Agreement, whether covered by Federal funding or not.

c. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, and hereby certifies that all obstructions and encroachments have been or will be removed prior to the start of construction.

d. Provide the State with a temporary construction easement (TCE) for the Project.

e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or Scope of Work called for in this Agreement becomes necessary, be obligated to incur and will pay for said increased costs.

f. Invoice the State for incurred eligible design costs up to the capped Federal funds amount of \$94,250.00. Agree to set aside funds in an amount equal to the difference between the total cost of the design work provided for in this Agreement and the amount of Federal Aid received.

g. Upon completion of construction, the City shall be responsible for, at its own costs, the proper and perpetual ongoing maintenance and repairs of the DMS equipment installed under this Agreement. Be responsible for electrical power costs to operate the DMS equipment

III. MISCELLANEOUS PROVISIONS

1. This terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project and related deposits or reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon thirty days (30) written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said project and shall be reimbursed for all incurred costs to date.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless and indemnify from loss the State,

any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by

any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The cost of design, construction and construction engineering work covered by this Agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this Agreement. Therefore, the City agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of Federal Aid received.

4. This Agreement shall become effective upon filing with the Secretary of State.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Chandler
City Manager
55 N. Arizona Place, #301
Chandler, Arizona 85225-5540
(480) 782-2210
(480) 782-2209 Fax

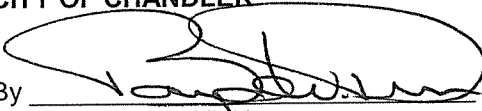
9. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.


11. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF CHANDLER

By 
BOYD W. DUNN
Mayor

ATTEST:

By 
MARLA PADDOCK
City Clerk

STATE OF ARIZONA

Department of Transportation

By 
SAM MAROUFKHANI, P.E.
Deputy State Engineer, Development

G:\Scottsdale reconstruction initial 8/16/06 draft ghc
Draft 2 ghc 1/22/07
Final Draft 3/9/07 ghc

JPA 06-088

ATTORNEY APPROVAL FORM FOR THE CITY OF CHANDLER

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF CHANDLER, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 25th day of May, 2007.



City Attorney

RESOLUTION NO. 4068

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT, JPA 06-088, WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) FOR THE DESIGN AND INSTALLATION OF DYNAMIC MESSAGE SIGNS, AND LINKING THEM TO THE CITY'S TRAFFIC MANAGEMENT CENTER

WHEREAS, the City of Chandler requested and has been approved for Federal Congestion Mitigation and Air Quality (CMAQ) grant funds in the amount of \$377,000 to design and install dynamic message signs, and link them to the City's Traffic Management Center, and;

WHEREAS, the City will design the project and be reimbursed by ADOT up to \$94,250 in federal funding, and;

WHEREAS, ADOT will bid the construction of the project, using \$282,750 of federal funding toward the cost of construction; and,

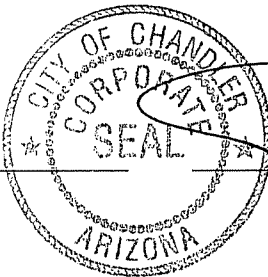
WHEREAS, ADOT and Federal procedures require an intergovernmental agreement between the City and ADOT to formalize the amount of federal and local funding, reimbursement procedures, and reporting requirements;

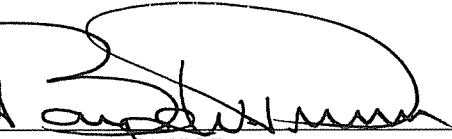
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, that the Mayor is authorized to sign and execute said Intergovernmental Agreement on behalf of the City of Chandler.

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this 24th day of May 2007.

ATTEST:


CITY CLERK



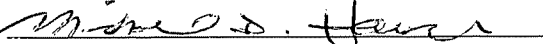

MAYOR


CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4068 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 24th day of May 2007, and that a quorum was present thereat.


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

TERRY GODDARD Attorney General	 OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA	CIVIL DIVISION TRANSPORTATION SECTION Direct Line: 602.542.8837
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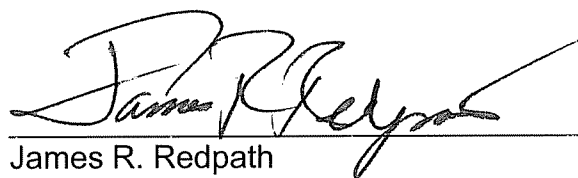
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR07-0361-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

Date: 6 June 2007

Terry Goddard
ATTORNEY GENERAL



James R. Redpath
Assistant Attorney General
Transportation Section

JRR:djd:12041